

APRIL 26, 2005

CITY OF GUNNISON COUNCIL
REGULAR SESSION MINUTES

7:00 P.M.

The Regular Session was called to order at 7:00 P.M., by Mayor Ferguson with City Councilors Simillion, Stone, Smits and Duba present along with City Attorney Landwehr, City Manager Collins, City Clerk Davidson, Acting City Manager Coleman, Finance Director Hanson, Community Development Director Westbay, Fire Marshal Spritzer, Building Official Sniffen, Parks & Recreation Director Ampietro, members of the Fiscal Impact Analysis Committee, several interested citizens and the press.

APRIL 26, 2005

PUBLIC HEARING

7:00 P.M.

Mayor Ferguson opened the Public Hearing at 7:00 P.M. and stated the purpose of the Public Hearing is receive Public Input on Ordinance No. 7, Series 2005; Text Amendment to Chapter 15, Land Development Code of the City Code regarding design standards for large scale retail development.

Mayor Ferguson asked for proof of publication. City Clerk Davidson stated there is proof of publication. Mayor Ferguson then asked for applicant input.

Community Development Director Westbay came forward and reviewed the Staff recommendation to approve the Ordinance. Items reviewed: history and policy direction of the big box moratorium; Planning Commission's recommendation of the big box moratorium; directions set forth by City Council in the moratorium ordinance; accomplishments of the moratorium tasks by City staff and consultants; compliance assessment of the proposed text amendment showing no conflict with the purposes of the Land Development Code; review of the administrative purposes of the proposed standards; purpose and applicability of the off-street parking standards; the improvement standards purposes; compliance with the City Master Plan; and review of the proposed amendment in preserving the public health, safety, general welfare and environment and contribution to the orderly development of the City. Planning Commission Chair Diane Lothamer gave Council a quick review on the input from citizens in the development process. The Gunnison Valley Community Alliance, the Gunnison Valley Economic Development Corporation, and many citizens gave input to the Commission that then considered these ideas and comments. Commissioner Lothamer commented: this is a new issue in that prior Code has not dealt with transportation impacts, landscape buffers, choices of architectural features, visual impacts, and providing waiver procedures for the applicant.

Councilor Duba had the following comments: Page 12, line 375, asked about Design Standards objectives v.s. intents; Page 14, asked about development intent and how waiver provisions refer back to the intent statements; Page 25, "D", questioned definition of primary façade with an entrance; page 8, "B", asked if the submittal requirements are similar to what is now required. Director Westbay stated they are more comprehensive.

Mayor Ferguson asked that the memo from Steve Westbay, dated April 18, 2005, outlining the Planning & Zoning Commission recommendation for approval of the Design Standards and a summary of comments received at the Planning Commission public hearing be entered into the record. City Clerk Davidson stated no further letters were received prior to this public hearing.

Mayor Ferguson called for public input. Pat Venturo, representing the League of Women Voters, read a letter into the record. A copy of the letter was entered into the record. The letter supported the application moratorium and endorses the Design Standards ordinance. Although they are still untested, they are an excellent guideline for staff, the Planning Commission and Council.

Bookie Louise, came forward. She worked with redevelopment planners in California for 12 years. She likes the proposed standards especially the buffering between land uses. She urges the Council to vote for the ordinance. The ordinance can always be modified in the future.

Phil Crossley, City resident, thanked Council and stated he is for the moratorium, it's extension and for the design standards proposed in the ordinance.

T.L. Livermore, with the Gunnison Valley Community Alliance, reminded Council no one spoke against the proposed standards and he attended almost all the meetings. He hopes Council gives more credence to people who participated in the development process. It is untried but he commended the Planning Commission and thanked the City Council candidates who were present. He strongly encouraged support of the proposed Ordinance.

Ralph Clark, City resident, thanked the Planning & Zoning Commission for the quality work especially in the short timeframe. Mr. Clark asked that: the timeframe for written comments on the proposed standards be extended; the standards be re-examined in the future to make sure everything fits together with the Land Development Code; the standards be reviewed annually to learn from internal and external issues; it would be helpful to try to make use of local talents; and it's necessary to clarify the decision making process in the future. He commended the Planning Commission and City Staff on all of their work.

Hearing no further input, the Mayor closed the Public Hearing at 7: 40 P.M.

PUBLIC HEARING

Mayor Ferguson opened the public hearing at 7:40 P.M. and stated the Public Hearing was being held in the City Council Chamber of City Hall, to receive public input on the Hotel & Restaurant Liquor License application from Bowlz Gourmet Eatery, Inc. 206 N. Main Street, Gunnison, Colorado, James and April Berger, owners. The Mayor stated all of City Council was present, as were City Attorney Landwehr, City Manager Collins and City Clerk Davidson.

The applicants, James and April Berger identified themselves. Mayor Ferguson asked anyone wishing to testify in the hearing to be sworn in by the City Clerk. City Clerk Davidson administered the oath to those wishing to testify.

City Attorney Landwehr and City Clerk Davidson reviewed the preliminary investigation report that included review by Fire Marshal Spritzer, Building Official Sniffen, the CBI and the Gunnison Police Department. The memo from the Police Chief indicated there were some discrepancies reported in the Personal Histories submitted by the applicants. Chief Keehne stated he would like to meet with the applicants to clarify some questions.

Mayor Ferguson asked if there was proof of publication and proof of posting. City Clerk Davidson stated there was and pictures were included in Council packets. The application is in order and the fees have been paid. The Mayor stated the determination of the neighborhood is "The incorporated City Limits of Gunnison, Colorado".

The applicants James and April Berger addressed Council. Mr. Berger stated he graduated from WSC and now wants to offer a unique dining option with late night hours. They want to offer a beer and wine option with their food to the customers. They see a need now that the Peace Pub has shut down on the same block.

Mayor Ferguson called for any testimony in favor of the application. Pat and Carol Kennedy testified on behalf of April Berger. They have been acquainted with April for a long time and vouch for her character.

Brian Hess, EMS Director at the Gunnison Valley Hospital, stated he knew James and April personally and believes they will have maturity in their decision making.

Mayor Ferguson called for opposition testimony. There was none.

At 8:00 P.M., Mayor Ferguson recessed the Public Hearing until later in the meeting after the applicants meet with the Police Chief and obtain the petitions showing wants and needs of the neighborhood that they forgot to submit.

Mayor Ferguson called the Regular Session back to order at 8:00 P.M.

Consideration of Minutes:

Regular Session Minutes of April 12, 2005.

Councilor Duba moved and Councilor Smits seconded the motion to approve the Regular Session Minutes of April 12, 2005, as submitted.

Roll call vote, yes: Simillion, Stone, Ferguson, Smits, Duba. Motion carried.

Roll call vote, no: None.

Pre-Scheduled Citizens:

Youth City Council Members, Re: Concerns about 10th Street @ W. Tomichi

Avenue Intersections Safety. Seven members of the Youth City Council came forward and addressed Council about some concerns with the intersections of 10th St & Virginia and 10th Street and Hwy 50. There was an accident involving High School students there recently and the students have safety concerns. Discussion ensued. Topics discussed: CDOT has the final say on what happens on Tomichi, not the City; possibility of having 10th Street a north-bound one-way; issues with visibility by the Ace Hardware parking lot; and students using other routes at lunch. Kathryn Ferchau and Madison Burgess volunteered to meet with the Public Works Director and the Police Chief to discuss this matter in further detail.

Unfinished Business: None.

New Business:

Challenge Grant Application from WSC Outlaw Rodeo Club for Spring Rodeo in the Amount of \$1,350. This item was discussed at the Work Session on April 19. Discussion ensued about the revised budget included in the packet. Councilor Stone recommended starting the funds-seeking process earlier in the year next time, to work with Planning Tech Ruggera on the development of a clearer budget and to track this year's out of town participants to determine the impact of the event on sales tax revenue.

Councilor Duba moved and Councilor Smits seconded the motion to accept the recommendation from the Challenge Grant Committee and award \$240 to the WSC Outlaw Rodeo Club for the purchase of breast collars and for the club to display the City banner at the event.

Roll call vote, yes: Stone, Ferguson, Smits, Duba, Simillion. Motion carried.

Roll call vote, no: None.

Action on License Agreement Application for 243 N. Main Street. This item was discussed in the Work Session prior to this Regular Session.

Councilor Stone moved and Councilor Simillion seconded the motion to accept the recommendation from Staff and approve the License Agreement for 243 N. Main Street, for encroachment of a building onto City property, to be effective on the date of closing, and to authorize the Mayor to sign said License Agreement.

Roll call vote, yes: Ferguson, Smits, Duba, Simillion, Stone. Motion carried.

Roll call vote, no: None.

Action on Wastewater Treatment Plant UV System Bid Award. This item was discussed at the April 19, Work Session.

Councilor Stone moved and Councilor Simillion seconded the motion to accept Staff's recommendation and award the Wastewater Treatment Plant UV System bid to the UV Doctor in an amount not to exceed \$220,000.

Roll call vote, yes: Smits, Duba, Simillion, Stone, Ferguson. Motion carried.

Roll call vote, no: None.

Action on Water Tank Coating Bids. This item was discussed at the Work Session prior to this Regular Session.

Councilor Duba moved and Councilor Stone seconded the motion to accept the recommendation from Staff and award the water tank coating bid to Thompson Coating in the amount of \$66,916.00 and further to use some of the budgeted funds to contract the inspection services on the project in an amount not to exceed \$2,000.

Roll call vote, yes: Duba, Simillion, Stone, Ferguson. Motion carried.

Roll call vote, no: None.

Letter of Support for Federal Department of Transportation Grant Application by Gunnison County Regional Transportation Authority.

Councilor Stone moved and Councilor Simillion seconded the motion to approve the Letter of Support for the Federal Department of Transportation grant application by the Gunnison County Regional Transportation Authority.

Roll call vote, yes: Simillion, Stone, Ferguson, Smits, Duba. Motion carried.

Roll call vote, no: None.

Set Special Session for May 5, 2005, for 1st Reading of Design Standards Ordinance and PD Chief Hiring Overview.

Councilor Stone moved and Councilor Smits seconded the motion to set a Special Session for 7:00 P.M. on May 5, 2005, with the agenda items to be 1st Reading on the Design Standards Ordinance and a Police Department Chief Hiring Overview.

Roll call vote, yes: Stone, Ferguson, Smits, Duba, Simillion. Motion carried.

Roll call vote, no: None.

1st Quarter Financial Update. Finance Director Hanson came forward and reviewed the 1st quarter 2005 financial report. Topics covered included: most operating expenses are tracking between 25 and 30% at this time; the cash flow statement is in the works; sales tax is up approximately 6% in the 1st quarter; most of the general fund tax revenue reflect only one or two months worth of revenues due to delayed timing of funds given remitted to the City; purchased power is only for the month of January as the February and March purchases are paid in April; personnel costs in the Ditch Fund show a deficit as the revenues from the Mineral Severance Funds won't be remitted until the last quarter; Water sales are always slow in the 1st quarter and will catch up in the summer months; the Communications Fund shows a surplus as most users pay up front at the beginning of the year; and the Cranor Fund shows a deficit at this time, however, there will be a General Fund transfer of Met Rec lottery funds later in the year. In addition, there will be a surplus in the grants and contracts as CCRA has notified the City that the Main Street Program will not be renewed in Gunnison. Councilor Stone asked that a column depicting what had been spent in the same time period the previous year be included on the spreadsheets.

At 8:50 P.M., Mayor Ferguson **reopened the Public Hearing on the Hotel & Restaurant Liquor License Application from Bowlz Gourmet Eatery, Inc., 206 N. Main Street, in Gunnison.**

Police Chief Keehne indicated the applicants, James and April Berger, had adequately addressed his concerns and he had no further reservations about the application. Mr. Berger produced several pages of petitions demonstrating the needs and wants of the adult inhabitants of the neighborhood for the liquor license application. The Mayor asked the petitions be entered into the record. Mayor Ferguson closed the Public Hearing at 8:53 P.M.

Action on New Hotel & Restaurant Liquor License Application from Bowlz Gourmet Eatery, Ltd., 206 N. Main Street, Gunnison, CO.

Councilor Stone moved and Councilor Duba seconded the motion that the Hotel & Restaurant Liquor License for Bowlz Gourmet Eatery, Ltd., 206 N. Main Street, Gunnison, Colorado, 81230, be approved for the following reasons:

1. There has not been a denial of an application at the same location, or a location within 500 feet thereof, by either the state or local licensing authority within the two years preceding the date of the application on the grounds that the reasonable requirements of the neighborhood were satisfied by existing outlets.
2. It appears from the evidence submitted with the application that the applicants are entitled to possession of the premises where the license is proposed to be exercised.
3. Selling liquor by the drink in the manner proposed in the application is not in violation of the zoning, fire, and other applicable codes of the City of Gunnison or the laws of the State of Colorado.
4. The building where the application proposes to sell liquor - malt, vinous, and spirituous by the drink, does not appear to be within 500 feet of any public or parochial school or the principal campus of any college, university, or seminary.

5. Within the City limits of the City of Gunnison, where liquor is proposed to be sold, there are the following existing other outlets:

- 4 - Beer and Wine Licenses
- 4 - Hotel/Restaurant Licenses
- 5 - Retail Liquor Store Licenses
- 1 - Arts License
- 1 - Brew Pub License
- 8 - Tavern Licenses
- 2 - Club Type Licenses
- 6 - 3.2% Beer Type License

6. Based on the petitions of adult inhabitants of the City of Gunnison, the license applied for will meet the desires of the adult inhabitants of the City of Gunnison.

7. All fees necessary for the application have been paid.

8. According to the information received by the Police Department of the City of Gunnison, Colorado, the Colorado Bureau of Investigation, and through testimony of the applicants before the Local Licensing Authority, the applicants are of good moral character and possesses the qualifications necessary to conduct the type of business proposed.

Roll call vote, yes: Duba, Simillion, Stone, Ferguson, Smits. Motion carried.

Roll call vote, no: None.

Ordinance and Resolutions:

Ordinance No. 4, Series 2005; Re: Lease/Purchase Financing of Community Center HVAC System, Jet-Vac Truck and L100E Front-End Loader, 2nd Reading.

Councilor Smits stepped down due to any possible conflict of interest.

Councilor Duba introduced Ordinance No. 4, Series 2005, and it was read by title only by the City Attorney.

Councilor Stone moved and Councilor Simillion seconded the motion that Ordinance No. 4, Series 2005, **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, AUTHORIZING THE NEGOTIATION, EXECUTION, AND DELIVERY OF A LEASE-PURCHASE AGREEMENT IN THE PRINCIPAL AMOUNT OF \$505,652 FOR AN HVAC SYSTEM AND FIRE SUPPRESSION SYSTEM AT THE GUNNISON COMMUNITY CENTER AND A SECOND LEASE-PURCHASE AGREEMENT IN THE PRINCIPAL AMOUNT OF \$254,707 FOR A JET-VAC TRUCK FOR THE WATER & SEWER DEPARTMENTS AND A FRONT-END LOADER FOR THE FLEET DEPARTMENT, BETWEEN BANK OF THE WEST, AS LESSOR, AND THE CITY OF GUNNISON, AS LESSEE, UNDER WHICH THE LESSEE WILL LEASE CERTAIN EQUIPMENT; AND PRESCRIBING OTHER DETAILS IN CONNECTION THEREWITH**, be introduced, read, passed and adopted on second reading this 26th day of April, 2005.

Roll call vote, yes: Ferguson, Duba, Simillion, Stone. Motion carried.

Roll call vote, no: None.

Councilor Smits returned to the meeting.

Ordinance No. 5, Series 2005; Re: Set Compensation for Mayor, City Council Members, and Appointed Board Members, 2nd Reading.

Councilor Stone introduced Ordinance No. 5, Series 2005, and it was read by title only by the City Attorney.

Councilor Duba moved and Councilor Smits seconded the motion that Ordinance No. 5, Series 2005, **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON AMENDING CHAPTER 2, ARTICLE 1, SECTION 1, OF THE CITY CODE OF THE CITY OF GUNNISON, COLORADO, PROVIDING AN INCREASE IN SALARIES FOR THE MAYOR AND COUNCILMEMBERS; AND PER SECTION 3.17 OF THE CITY OF GUNNISON MUNICIPAL HOME RULE CHARTER, SETTING AN INCREASE IN**

THE COMPENSATION OF THE PLANNING & ZONING COMMISSIONERS, ZONING BOARD OF ADJUSTMENT AND APPEALS MEMBERS, AND BUILDING BOARD OF APPEALS MEMBERS, to be effective January 1, 2006, be introduced, read, passed and adopted on second reading this 26th day of April, 2005.

Roll call vote, yes: Smits, Duba, Simillion, Stone, Ferguson. So carried.

Roll call vote, no: None.

Ordinance No. 6, Series 2005; Re: Concerning Consumption of Alcohol in Public Places, 1st Reading.

Councilor Smits introduced Ordinance No. 6, Series 2005, and it was read by title only by the City Attorney.

Councilor Stone moved and Councilor Simillion seconded the motion that Ordinance No. 6, Series 2005, **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, REPEALING AND RE-ENACTING SECTION 5-1-22 OF THE CITY CODE OF THE CITY OF GUNNISON CONCERNING THE CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES,** be introduced, read, passed and ordered published on first reading this 26th day of April, 2005.

Roll call vote, yes: Simillion, Stone, Ferguson, Smits, Duba. Motion carried.

Roll call vote, no: None.

Resolution No. 10, Series 2005; Re: Canceling Regular Session Meeting of May 10, 2005, Due to City Election.

Councilor Stone introduced Resolution No. 10, Series 2005, and it was read by title only by the City Attorney.

Councilor Simillion moved and Councilor Duba seconded the motion that Resolution No. 10, Series 2005, **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, TO CANCEL THE REGULAR SESSION MEETING DATE OF CITY COUNCIL WHICH WAS ORIGINALLY SCHEDULED FOR MAY 10, 2005,** be introduced, read, passed and adopted this 26th day of April, 2005.

Roll call vote, yes: Stone, Ferguson, Smits, Duba, Simillion. Motion carried.

Roll call vote, no: None.

Resolution No. 11, Series 2005; Re: Authorizing Execution of Contract for Sale of Webster Hall to Gunnison Community Church.

Councilor Stone introduced Resolution No. 11, Series 2005, and it was read by title only by the City Attorney.

Councilor Duba moved and Councilor Smits seconded the motion that Resolution No. 11, Series 2005, **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, AUTHORIZING THE EXECUTION OF THE CONTRACT FOR THE PURCHASE AND SALE OF THE REAL PROPERTY POPULARLY KNOWN AS “WEBSTER HALL” BY AND BETWEEN THE CITY OF GUNNISON, AS SELLER, AND THE COMMUNITY CHURCH OF GUNNISON, AS PURCHASER, FOR THE PURCHASE PRICE OF \$250,000.00, AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE DEED THEREFOR AT THE TIME OF CLOSING,** be introduced, read, passed and adopted this 26th day of April, 2005.

Roll call vote, yes: Ferguson, Smits, Duba, Simillion, Stone. Motion carried.

Roll call vote, no: None.

Resolution No. 12, Series 2005; Re: Commending Planning & Zoning Commission Members and City Community Development Staff.

Councilor Smits introduced Resolution No. 12, Series 2005, and it was read in its entirety by the Mayor.

Councilor Stone moved and Councilor Simillion seconded the motion that Resolution No. 12, Series 2005, **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, COMMENDING THE MEMBERS OF THE PLANNING AND ZONING COMMISSION AND THE CITY COMMUNITY DEVELOPMENT STAFF FOR THEIR DEDICATION AND PERFORMANCE**, be introduced, read, passed and adopted this 26th day of April, 2005.

Roll call vote, yes: Smits, Duba, Simillion, Stone, Ferguson. Motion carried.
Roll call vote, no: None.

City Attorney: Nothing further to report.

City Manager: Mark Collins.

Resolution No. 13, Series 2005; Re: Commending City Manager Mark Collins.

Councilor Stone introduced Resolution No. 13, Series 2005, and it was read in its entirety by Mayor Pro Tem Stone.

Councilor Simillion moved and Councilor Smits seconded the motion that Resolution No. 13, Series 2005, **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, RECOGNIZING AND COMMENDING MARK A. COLLINS FOR HIS OUTSTANDING PERFORMANCE AS CITY MANAGER**, be introduced, read, passed and adopted this 26th day of April, 2005.

Roll call vote, yes: Duba, Simillion, Stone, Ferguson, Smits. Motion carried.
Roll call vote, no: None.

City Manger Collins thanked Council, staff and the citizens for the resolution. City Manager Collins reviewed a memo from Dr. Fred Rainguet concerning the Police Chief search. 32 applications were received as of last Friday. The City Manager also thanked Mayor Ferguson for participating in the ceremony at the Community Center where the Gunnison Metropolitan Recreation Board presented a check for \$58,000 for construction of the climbing wall. He thanked Board member Steve Bathje for his participation. Region 10 representatives will be touring the facility on Thursday.

Acting City Manager – Public Works Director Ken Coleman Departmental Report. Director Coleman reviewed the accomplishments of his department since his last report and thanked Council for their support of the department. Councilor Stone complemented the Public Works employees.

City Clerk: Gail Davidson. Reported the Community Clean-up was a great success and thanked Council for their continued support of this great community project.

Non-Scheduled Citizens: None.

General Discussion/Items for Work Session:

Councilor Smits, Duba, Stone, Simillion and Mayor Stone: Nothing further to report.

Adjournment: At 9:36 P.M.

Mayor

City Clerk